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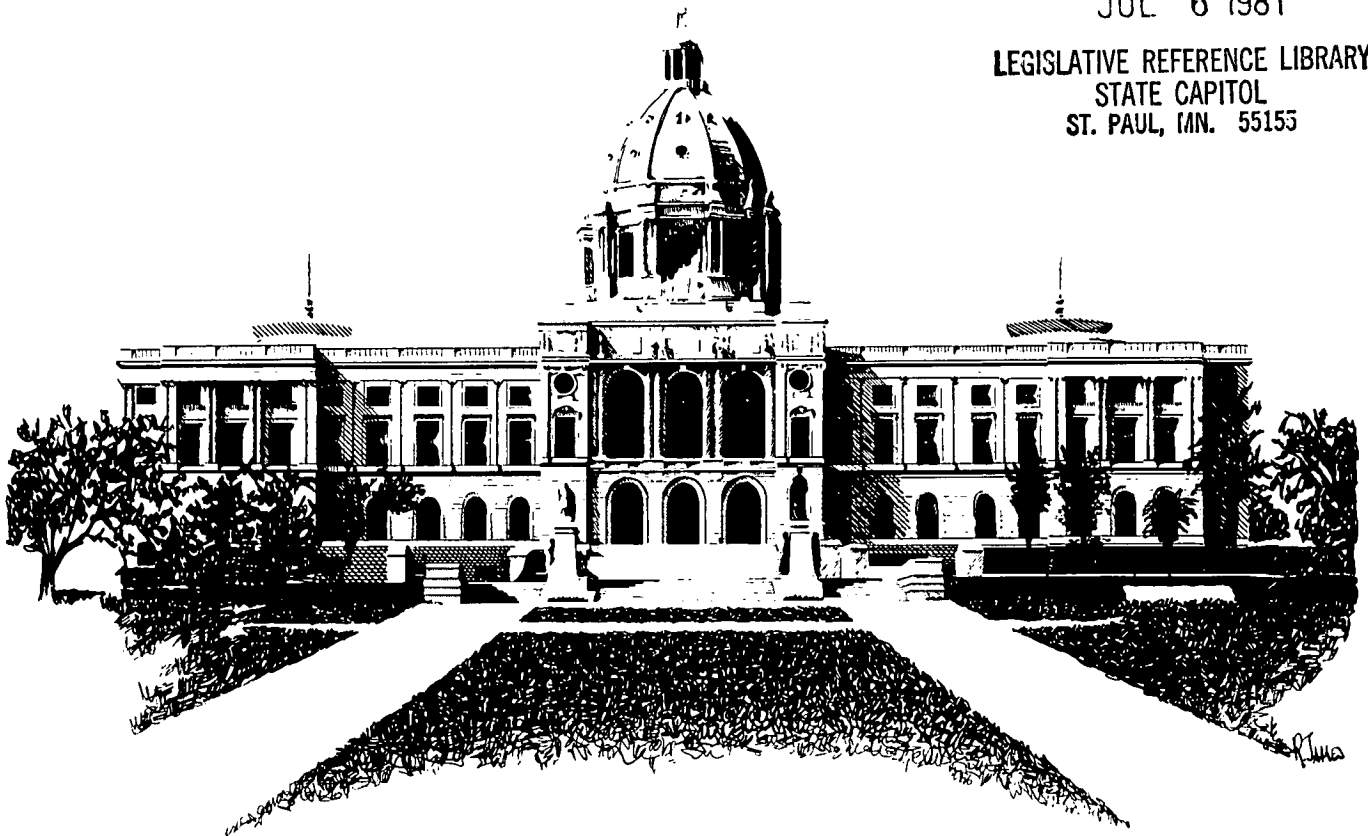
# STATE REGISTER

STATE OF MINNESOTA

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VOLUME 6, NUMBER 1

July 6, 1981

Pages 1-32



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### Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
<b>SCHEDULE FOR VOLUME 6</b>			
2	Friday June 26	Monday July 6	Monday July 13
3	Monday July 6	Monday July 13	Monday July 20
4	Monday July 13	Monday July 20	Monday July 27
5	Monday July 20	Monday July 27	Monday Aug 3

\*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

\*\*Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630, (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$2.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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## NOTICE

### How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

#### The **PROPOSED RULES** section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

#### The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR **AMENDMENTS AND ADDITIONS** list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the MCAR.

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# PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
  2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
  3. of the manner in which persons shall request a hearing on the proposed rules;
- and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Department of Economic Security

### Proposed Rules for the State Weatherization Program

#### Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (1980) at 9:30 a.m. in the large hearing room on the 7th floor of the American Center Building, 150 East Kellogg Blvd., St. Paul, Minnesota 55101, on August 6, 1981.

All interested or affected persons will have the opportunity to participate. Statements may be made orally and written material may be submitted at the hearing. In addition, written material may be submitted by mail to Hearing Examiner, Richard Luis, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota, 55140, telephone (612) 296-8114. Unless a longer period, not to exceed twenty calendar days, is ordered by the hearing examiner at the hearing, the record will remain open for the inclusion of written material for five (5) working days after the hearing ends. The proposed rules are subject to changes as a result of the rules hearing process. The agency, therefore, strongly urges those who may be affected in any manner by the substance of the proposed rules to be considered in this hearing to participate in the rules hearing process. In addition it is suggested, to save time and avoid duplication, that those persons, organizations or associations having common viewpoints or interests in these proceedings join together where possible and present a single statement on behalf of such interests. All such statements will be entered with and become a part of the record.

The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 (1980) and by 9 MCAR §§ 2.101-2.113. All questions and statements about procedure may be directed to the hearing examiner. All questions related to the content of the rules may be directed to Alan Chapman, Director of the State Weatherization Program, Minnesota Department of Economic Security, 690 American Center Building, 150 East Kellogg Blvd., St. Paul, Minnesota, 55101, telephone (612) 296-5752. One free copy of the rules will also be available upon request from Alan Chapman.

Minn. Stat. § 268.37, subd. 3 (1979 Supp.) provides that the Commissioner of Economic Security shall promulgate rules to administer the weatherization grants program. The rules shall describe: (a) procedures for administration of grants, (b) data to be reported by grant recipients, and (c) other matters the commissioner deems relevant for the proper administration of the grant program. The purpose of these standards is to facilitate the implementation of rules in accordance with Minn. Stat. § 268.37 (1979 Supp.).

The proposed rules, if adopted, would replace Department of Economic Security rules 8 MCAR § 4.4010 which are available upon request at the Department of Economic Security. The proposed rules are minimum standards for the operation of the weatherization assistance program for low-income persons in the State of Minnesota and include: (1) a Statement of Purpose, (2) administration of costs, (3) definitions, (4) allocation of funds, (5) contract period, (6) eligible applicants, (7) local

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## PROPOSED RULES

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applications, (8) oversight responsibility, (9) record keeping, fiscal responsibilities and reporting, (10) the grant process, (11) severability, and (12) variances.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he/she commences lobbying. A lobbyist is defined in Minn. Stat. § 1014.01, subd. 11 (1980) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five (5) hours in any month or more than \$250, not including his/her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including his/her own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exception. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notifications by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

June 22, 1981

Rolf Middleton, Commissioner  
Department of Economic Security

### Rule as Proposed (all new material)

#### 8 MCAR § 4.0012 Weatherization aid for low-income people.

A. Purpose. The purpose of this rule is to develop and implement a state weatherization assistance program under the authority of Minn. Stat. § 268.37 in the dwellings of low-income persons in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

B. Administration of costs. Grants awarded under this rule shall be administered in accordance with the following:

1. Office of Management and Budget Circular A-102 Revised, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" issued September 12, 1977, 42 Federal Register 45828-45891 (1977).
2. Office of Management and Budget Circular A-110 entitled "Grants and Agreements With Institutions of Higher Education, Hospitals, and other Nonprofit Organizations" issued July 30, 1976, 41 Federal Register 32016-32037 (1976).
3. Office of Management and Budget Circular A-73 entitled "Audit of Federal Operations and Programs" issued March 15, 1978, 43 Federal Register 12404-12406 (1978).
4. Office of Management and Budget Circular A-87 entitled "Cost Principles for State and Local Governments" issued January 15, 1981, 46 Federal Register 9548-9554 (1981).
5. Office of Management and Budget Circular A-95, entitled "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects" issued January 13, 1976, 40 Federal Register 2052-2065 (1976).
6. United States Treasury Circular 1082, entitled "Notification to States of Grant-in-Aid Information" issued February 17, 1976, 41 Federal Register 2652 (1976).
7. United States Treasury Circular 1075 entitled, "Withdrawal of Cash From the Treasury for Advances Under Federal Grant and Other Programs" issued October 14, 1977, 31 Code of Federal Regulations 205 (1980).

C. Definitions. As used in this rule the following terms have the meanings given them.

1. "Agency" means an organization that receives funds under this rule to operate a weatherization program.
2. "Assistant commissioner" means the Assistant Commissioner of the Division of Training and Community Services of the Department of Economic Security.
3. "Community action agency" means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, 42 United States Code, Sections 2701-2996(1) (1977 and Supplement III 1980), which is authorized to administer funds received from federal, state, local, or private funding entities to assess, design, operate, finance and oversee antipoverty programs.
4. "Commissioner" means the Commissioner of the Department of Economic Security.
5. "Cosmetic items" means items which when installed will not reduce energy costs in a cost-effective manner. Cosmetic items include finishes, decorative fenestration, and elevation materials, such as aluminum siding, board and batten clapboard, brick, shakes and asphalt siding.
6. "Department" means the Department of Economic Security.
7. "Dwelling unit" means a house or household. It includes stationary mobile homes, homes, apartments, and a group of rooms or a single room occupied as separate living quarters.
8. "Elderly person" means a person who is 60 years of age or older.
9. "Family unit" means all persons living together in a dwelling unit.
10. "Grantor" means the Division of Training and Community Services, Department of Economic Security, State of Minnesota.
11. "Grantee" means an organization that receives funds under this rule to operate a weatherization program.
12. "Handicapped person" means a person who has a permanent physical or mental disability that can be documented by a qualified medical or other professional person.
13. "Heating or cooling source" means a device which can raise or lower temperatures within a dwelling unit as part of the permanent heating, ventilating, and air conditioning system installed in the dwelling unit. It includes furnaces, heat pumps, stoves, boilers, heaters, fireplaces, air conditioners, fans, and solar devices.
14. "Local applicant" means an agency, a unit of general purpose local government, or Indian tribe.
15. "Indian tribe" means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaska native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 United States Code, Sections 1601-1628 (1977 and Supplement III 1980), which:
  - a. Is recognized as eligible for special programs and services provided by the United States to Native Americans because of its status as Native American; or
  - b. Is located on, or in proximity to, a federal or state reservation or rancheria.
16. "Low income" means that total household income in relation to family size is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Federal Office of Management and Budget in 45 Code of Federal Regulations 1060 (1981).
17. "Mechanical equipment" means a control device or apparatus which is primarily designed to improve the heating or cooling efficiency of a dwelling unit and which will be permanently affixed to an existing heating or cooling source. It includes a flue damper, clock setback thermostat, filter, and replacement limit switches.
18. "Multifamily dwelling unit" means a dwelling unit which is located in a structure containing more than one dwelling unit.
19. "Number of low-income, owner-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

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## PROPOSED RULES

20. "Number of low-income, renter-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

21. "Repair material" means an item necessary for the effective performance or preservation of weatherization materials. Repair material includes lumber used to frame or repair windows and doors which could not otherwise be caulked or weather-stripped, and protective materials, such as paint, used to seal materials installed under this program. Repair material also includes furnace efficiency modifications limited to:

- a. Replacement burners designed to substantially increase the energy efficiency of the heating system;
- b. Devices for modifying fuel openings, including one-time replacement of furnace filters which will increase energy efficiency of the heating system; and
- c. Electrical or mechanical furnace ignition systems which replace standing gas pilot lights.

22. "Regional clearinghouse" means the local Regional Development Commission which has the authority under Title IV of the Intergovernmental Cooperation Act of 1968, 42 United States Code, Sections 4231-4233 (1977), to review and comment with respect to federal and state funded projects.

23. "Rental dwelling unit" means a dwelling unit occupied by a person who pays periodic sums of money for the use of the dwelling unit.

24. "Separate living quarters" means those in which the occupants do not regularly live and eat with any other persons in the structure and which have either direct access from the outside of the building or through a common hall, or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

25. "Single family dwelling unit" means a structure containing no more than one dwelling unit.

26. "State" means the State of Minnesota.

27. "Unit of general purpose local government" means any city, county, town, parish, village or other general purpose political subdivision of the state.

28. "Weatherization crew" means a group of weatherization laborers with a weatherization supervisor.

29. "Weatherization laborer" means a person who performs weatherization and repair activities necessary to complete work on eligible households. The work may include audits, inspections, and warehouse and inventory control.

30. "Weatherization project" means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are thermally inefficient.

31. "Weatherization supervisor" means a person who inspects complicated weatherization and repair activities and who is responsible for crew laborers' conduct, performance, and evaluation.

32. "Weatherization materials" means materials used to weatherize homes as outlined in Exhibit 8 MCAR § 4.0012 C.32.-1.

### Exhibit 8 MCAR § 4.0012 C.32.-1 Allowable Weatherization Materials

Number	Title	Date Approved	CFR Section Reference
ANSI / AAMA 1002.9-1977	Voluntary Specification for Aluminum Combination Storm Windows for External Applications	11/1/79	456.813
ANSI / AAMA 1102.7-1977	Voluntary Specification for Aluminum Storm Doors	11/1/79	456.813
ANSI / NWMA I.S. 2-73	Industry Standard for Wood Windows	11/1/79	456.813
ANSI / NWMA I.S. 5-73	Ponderosa Pine Doors	11/1/79	456.813
ASTM C-516-75	Standard Specification for Vermiculite Loose Fill	11/1/79	456.806
ASTM C-520-65 (Reapproved 1975)	Standard Method for Density of Granular Loose-fill Insulation	11/1/79	456.806 456.807



## PROPOSED RULES

ASTM C-570-72	Specification for Oil and Resin Based Caulking Compound for Building Construction	11/1/79	456.812
ASTM C-578-69	Standard Specification for Preformed, Block-Type Cellular Polystyrene Thermal Insulation	11/1/79	456.808
ASTM E-737-80	Standard Practice for the Installation of Storm Windows, Replacement Windows, Multi-Glazing, Storm Doors and Replacement Doors	9/17/80	456.911
ASTM C-755-73	Standard Recommended Practice for Selection for Vapor Barriers for Thermal Insulation	9/17/80	456.903
HH-I-515D (6/78)	Insulation, Thermal (Loose-fill for Pneumatic or Poured Application): Cellulosic or Wood Fiber	11/1/79	456.803 456.804 456.805
HH-I-524B (11-72 and Interim Amendment 1, 1/76)	Insulation Board, Thermal (Polystyrene)	11/1/79	456.808
HH-I-530A (1971 and Interim Amendment 3, 5/76)	Insulation Board, Thermal (Polyurethane and Polyisocynurate)	11/1/79	456.809
HH-I-558B (1971 and Interim Amendment 3, 5/76)	Insulation Blocks, Boards, Blankets, Felts, Sleeving, and Pipe Fitting Coverings	11/1/79	456.812
HH-I-573B (1968 and Interim Amendment, 1976)	Insulation, Thermal (Flexible Unicellular Sheet and Pipe Covering)	11/1/79	456.812
HH-I-574B (1974 and Interim Amendment 1, 9/76)	Insulation, Thermal (Perlite)	11/1/79	456.807
HH-I-585C (1974 and Interim Amendment 1, 9/76)	Insulation, Thermal (Vermiculite)	11/1/79	456.806
HH-I-1030A (1973 and Interim Amendment 1, 9/76)	Insulation, Thermal (Mineral Fiber for Pneumatic or Poured Application)	11/1/79	456.804 456.805
HH-I-1252B (1976)	Insulation, Thermal Reflective (Aluminum Foil)	11/1/79	456.811
TT-S-001543A (1971)	Sealing Compound, Silicone Rubber Base (for Caulking, Sealing, and Glazing in Buildings and Other Structures)	11/1/79	456.812
TT-S-00227E (1969 and Amendment 3, 10/70)	Sealing Compound, Elastomeric Type, Multi-Component (for Caulking, Sealing, and Glazing in Buildings and Other Structures)	11/1/79	456.812
TT-S-001657 (COM-NBS) (1970)	Sealing Compound, Single Component Butyl Rubber Base, Solvent Release Type (for Buildings and Other Types of Construction)	11/1/79	456.812
TT-S-00230C (COM-NBS) (1970 and Amendment 2, 10/70)	Sealing Compound, Elastomeric Type, Single Component, (for Caulking, Sealing, and Glazing in Buildings and Other Structures)	11/1/79	456.812

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## PROPOSED RULES

TT-C-00598C (COM-NBS) (1970)	Caulking Compound, Oil and Resin Type, (for Building Construction)	11/1/79	456.812
TT-P-00791B (CSA-FSS) (1969 and Amendment 2, 1970)	Putty Linseed-Oil Type, (for Wood-Sash-Glazing)	11/1/79	456.812
FHDA 6-79	Industry Standard for Douglas Fir, Western Hemlock, and Sitka Spruce Doors and Blinds	11/1/79	456.813
NBS / PS 26-70	Rigid Polyvinyl-chloride Profile Extrusions	11/1/79	456.813
ASMT C-790-74	Standard Recommended Practices for Use of Latex Sealing Compounds	9/17/80	456.916
ASMT C-797-75	Standard Recommended Practices and Terminology for Use of Oil- and Resin-Based Putty and Glazing Compounds	9/17/80	456.916
ASTM C-804-75	Standard Recommended Practices for Use of Solvent Release Type Sealants	9/17/80	456.916
ASTM C-834-76	Specification for Latex Sealing Compounds	11/1/79	456.812
ASTM D-1622-63 (Reapproved 1975)	Standard Method of Test for Apparent Density of Rigid Cellular Plastics	11/1/79	456.810
ASTM E-84-79B	Standard Test Method for Surface Burning Characteristics of Building Materials	11/1/79	456.808 456.809 456.810 456.812
ASTM E-96-66	Standard Test Method for Water Vapor Transmission of Materials in Sheet Form	11/1/79	456.805
BOCA Research Report No. 72-23		11/1/79	456.813

Information for this exhibit is from 10 Code of Federal Regulations, Sections 456.101-456.914 (1980), amended by 45 Federal Register 63449, 63453, 63793 (1980).

D. Allocation of funds. The department will allocate funds by county based on the following formula:  $xd$  divided by  $ya$  = county's allocation

Where:  $x$  = the number of eligible recipients in the county;  
 $d$  = number of degree days in the county;  
 $ya$  = the sum of  $xd$ .

The formula weights eligible recipients and state degree days. Data on eligible recipients is from the 1970 federal census. The number of eligible recipients is the number of low-income families plus the number of unrelated individuals below 100 percent of poverty less the number of low-rent public housing units.

The second factor in the formula is "heating degree days." Data for this factor was received from the National Oceanic and Atmospheric Administration in a publication entitled Monthly Normals of Temperature, Precipitation and Heating and Cooling Degree Days, 1941-1970, published by the United States Department of Commerce, August 1973.

E. Reservation allocations. American Indian reservations will receive two percent of the state allocation. All American Indian reservations will receive funds based on the low income population of the state according to the 1970 federal census data.

F. Contract period. All contracts between the state and grantee will run for six months beginning July 1.

G. Eligible applicants. Applicants' eligibility shall be determined by the commissioner or assistant commissioner.

1. The commissioner shall allocate funds by geographic area to a public or private nonprofit agency with a demonstrated ability to administer and deliver weatherization services.

2. Paragraph G.1. shall not apply if the commissioner or the assistant commissioner determines on the basis of a public hearing that the plan carried out by the grantee has been ineffective in meeting the purpose of the statute. Notice of the public hearing shall be made ten days prior to the hearing in two local newspapers in the grantee's service area.

3. In making a determination pursuant to paragraph G.2., the commissioner or assistant commissioner acting on behalf of the commissioner shall evaluate the performance of the grantee and shall consider:

- a. The extent to which the weatherization project achieves the goals of Minn. Stat. § 268.37 in a timely fashion;
- b. The adherence to the plan developed by the grantee;
- c. The quality of work performed; and
- d. The number, qualifications, and experience of staff members.

H. Local applications. Applications must contain the information described in this section.

1. To be eligible for financial assistance under this rule, a local applicant shall submit an application or plan for state funds and any other funds used to support the plan to the commissioner but not later than thirty days after the announcement of availability of funds for each year. The commissioner shall review each timely application and if the submission complies with the applicable provisions of this rule, approve a final budget and issue a notice of grant award.

2. Each application shall include:

- a. The name and address of the local agency or office responsible for administering the program;
- b. A statement by grantee's responsible authority insuring the following:

(1) No dwelling unit may be weatherized without documentation that the dwelling unit is an eligible dwelling unit as provided in this rule;

(2) That there is an outreach process used to obtain applications and that a description of the process is included; and

(3) The establishment of a priority system for client applications giving priority to fuel oil users, elderly, and handicapped persons, and low income persons;

c. The total number of dwelling units proposed to be weatherized with grant funds from all sources during the fiscal year for which assistance is to be provided listed by the county served. Each application shall indicate percentages of each priority served;

d. A financial schedule which indicates the monthly funding requirements based on projected production;

e. Staffing patterns for all weatherization personnel to allow local program grantees to attain production goals; and

f. A review of the plan by the regional clearinghouse.

3. The department shall set a minimum production goal for each grantee based on the statewide average cost for material and labor in past programs. This figure will be divided into the agency's grant to establish the minimum number of dwelling units to be weatherized.

4. If the grantee determines that it cannot fulfill its obligations under the plan in whole or part, the grantee may request an amendment or revision of the existing approved plan and resubmit a new plan or amendments within 30 days after the written notice of request for consideration. The request from the grantee must be in a writing detailing its specific views with supporting data and arguments.

5. The department shall set a maximum material limit of \$750 and shall establish a weatherization priority list that is to be followed in the expenditure of funds.

I. Allowable expenditures. Expenditures allowed for grants under this rule must conform to the following guidelines.

1. To the maximum extent practical, the grant funds provided under this rule shall be used for administration, purchase of labor, supervision, materials, equipment, tools, and related matter. Allowable expenditures shall be limited to:

a. The cost of purchase, delivery, and storage of weatherization materials. The cost, determined by a local grantee, shall not exceed an average dollar value per dwelling unit established by the grantee in that grantee's plan of:

(1) Transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the site of the weatherization work;

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- (2) Maintenance, operation, and insurance of vehicles used to transport weatherization materials;
  - (3) Maintenance of tools and equipment;
  - (4) Purchase or lease of tools, equipment, and vehicles. Purchase or lease of items with a value in excess of \$50 must have prior approval in every instance. Purchasing must follow procedures outlined in Federal Management Circulars A-102, A-87 and A-110. All purchases over \$300 must have written approval of the department.
  - (5) The cost of employment of weatherization supervisors;
  - (6) The cost of employment of weatherization labors;
  - (7) The cost, not to exceed \$150 per dwelling unit, of incidental repairs, including repair materials and repairs to the heating source necessary to make the installation of weatherization materials effective; and
  - (8) Building permits where applicable;
- b. The cost of liability insurance for weatherization projects for personal injury and property damage;
  - c. Allowable administrative expenses not to exceed each agency's base administrative allocation;
  - d. Weatherization of a building containing rental dwelling units where not less than 66 percent of the rental units in the building are eligible units; the grantee enters into a written agreement with the landlord and landlord's agent granting permission to do the weatherization work and guaranteeing that rents will not be raised due to the weatherization work; and no undue or excessive enhancement occurs to the value of the dwelling units.
2. Grant funds awarded under this rule shall not be used for any of these purposes:
    - a. To weatherize a dwelling unit which has been weatherized previously with grant funds from the United States Department of Energy or state assistance under Minn. Stat. § 268.37 or this rule, unless such dwelling unit has been damaged by fire, flood, or an act of God, and repair of the damage to weatherization materials is not paid for by insurance;
    - b. To weatherize a dwelling unit which is vacant or designated for acquisition or clearance by a federal, state, or local government program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or
    - c. To purchase cosmetic items, remodeling items, or a heating or cooling source.
  3. Grantees wishing to use funds for other expenses related to the delivery of the weatherization program in accordance with Minn. Stat. § 268.31 must make application to the assistant commissioner who will act on behalf of the commissioner. Documentation must be included to substantiate any request.
- J. Oversight responsibility. The projects of the grantees shall be supervised in the following manner:
1. The commissioner, or the assistant commissioner on behalf of the commissioner, shall monitor and evaluate the operation of projects carried out by the grantees receiving financial assistance under this rule through on-site inspections or through other means.
  2. The department shall make periodic evaluations of weatherization programs carried out by the grantee.
  3. The commissioner, the assistant commissioner, or their appropriate authorized representatives shall have access to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under the law for the purpose of audit and examination.
  4. The commissioner shall conduct an annual audit of the pertinent records of a grantee receiving financial assistance under this rule.
- K. Record keeping. Each grantee receiving state financial assistance under this rule shall keep records the commissioner requires, including records which fully disclose the amount and disposition by each grantee of funds received under this rule, the total cost of the weatherization project to implement the grantee plan for which the assistance was given or used, including all sources and amounts of funds for the project or program, and other records the commissioner deems necessary for an effective audit and performance evaluation. Record keeping shall be in accordance with Federal Management Circular A-87 and any further requirements of this rule or requirements the commissioner may otherwise establish consistent with this rule.
- L. Monthly reports. Each grantee receiving financial assistance under this rule shall submit a monthly program performance report and a monthly financial report or invoice to the commissioner.
- M. Eligible dwellings. No dwelling unit shall be eligible for weatherization assistance under this rule unless it is occupied by a family unit whose income is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Federal Office of Management and Budget based on household income for the 12 months before application.

N. Granting process. Once the application for a grant has been approved, the commissioner shall notify the grantee of the approval, and any conditions shall be specified. A grant contract shall be signed by the commissioner or the assistant commissioner and the authorized local agency representative. The grant contract shall specify that report requirements and other grant requirements shall be met prior to any obligation of funds. Payments on grant contracts shall be made on the basis of grantee activity in the program. Cash on hand in excess of thirty day program requirements shall not be delivered. Payments to grantees shall be reviewed in comparison to expenditures to determine cash needs. Expenditures shall be reported monthly on forms to be supplied by the department. Grantees shall be required to project the next month's cash needs on the previous month's expenditure report.

O. Fiscal responsibility. No funds shall be released to a grantee receiving financial assistance under this rule until it has submitted to the assistant commissioner a statement certifying that the grantee:

1. Has an established accounting system with internal controls adequate to safeguard its assets;
2. Has operating efficiency and reliable accounting data;
3. Promotes operating efficiency and encourages compliance with prescribed management policies; and
4. Has additional fiscal responsibility and accounting requirements the assistant commissioner may require consistent with these rules. The statement may be furnished by a certified public accountant, a duly licensed public accountant, or, in the case of a public agency, the appropriate public financial officer who accepts responsibility for providing required financial services to that agency.

P. Severability. The provisions of this rule shall be severable and if any phrase, clause, sentence, or provision is declared illegal or of no effect, the validity of the remainder of this rule and its applicability to any person or circumstance shall not be affected.

Q. Variances. Variances may be granted in the following situations.

1. The commissioner may grant a variance to this rule upon the request of the grantor where it appears that:
  - a. Changes have occurred which require revised standards and procedures to be specified by the grantor;
  - b. The rationale for the rule in question can be met or exceeded by the specific alternatives which the grantor proposes to substitute;
  - c. Granting of the variance would not adversely affect the public health or safety; and
  - d. Granting of the variance would not conflict with standards imposed by law.
2. The commissioner shall, within 30 days after receipt of a request for a variance, notify the grantor in writing of the granting or denial of the variance and the reasons therefore. A variance may be conditioned on alternative practices proposed by the grantor or imposed by the commissioner.
3. Variances may be of limited duration, and may be revoked if a material change occurs in the circumstances which justified the variance.

## **Department of Public Welfare Social Services Division**

### **Proposed Amendment of Rules Governing All Vending Stands and Business Enterprises of the Services for the Blind (12 MCAR § 2.079)**

#### **Notice of Intent to Adopt Rules without a Public Hearing**

Notice is hereby given that the State Department of Public Welfare proposes to amend the above-entitled rule without a public hearing. The commissioner has determined that the proposed amendment of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subds. 4h (1980).

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Persons interested in this rule shall have 30 days to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Ralph Rolland, Director  
Business Enterprises Program for the Blind  
1745 University Avenue  
St. Paul, Minnesota 55104  
(612) 296-6043

Authority for the adoption of this rule is contained in Minn. Stat. § 248.07. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Ralph Rolland, Director, Business Enterprises Program for the Blind, 1745 University Avenue, St. Paul, Minnesota.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to Ralph Rolland, Director, Business Enterprises Program for the Blind, 1745 University Avenue, St. Paul, Minnesota.

This rule governs the operation and management of the Business Enterprises Program for the Blind, and provides a means of communication and guidance with all vending stand operators. The major sections of this rule cover the following:

- A. The selection process for blind persons entering the program, and conditions of their license to operate an enterprise, and the conditions when a license may be terminated;
- B. The policies governing the duties, supervision, transfer, and participation of vending stand operators;
- C. The duties and responsibilities of the state licensing agency;
- D. The provision that funds will be set aside from the operation of each vending stand and that these funds will be used for the purchase and repair of equipment, and other purposes as specified in State law;
- E. The provision for the vending stand operator to file an informal or a formal appeal if dissatisfied with any decision of the state licensing agency.

The major proposed amendments in this rule cover the following:

- A. The whole rule has been amended so as to provide better clarity and communication between the state licensing agency and the vending stand operator;
- B. To further facilitate communication, a section has been added regarding the election, organization and function of an operator management committee. This committee is mandated by the federal act and will participate with the state licensing agency in major policy decisions;
- C. The section on appeals or fair hearings has been rewritten to clarify the process, and the rights of a vending stand operator to appeal any agency decision;
- D. The section on the set aside of funds was changed to conform to the Federal Act that the formula be based upon "net proceeds," as defined in this rule;
- E. A section was added that each vending stand operator shall be provided access to all program and financial data relevant to the operation of the vending stand program.

These proposed amendments to 12 MCAR § 2.079 (DPW 79) are written so as to conform to the requirements of the Federal requirements contained in the Randolph-Sheppard Act (20 U.S.C. §§ 107-107) and 45 C.F.R., Part 1369 (1979).

Copies of this notice and the proposed rule are available and may be obtained by contacting Ralph Rolland, Director, Business Enterprises Program for the Blind, 1745 University Avenue, St. Paul, Minnesota.

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The implementation of the amendments to this rule will not result in any increased spending for local public bodies for the next two years.

June 22, 1981

Arthur E. Noot  
Commissioner of Public Welfare

### Amendments as Proposed

#### 12 MCAR § 2.079 Rules Governing All Vending Stands and Business Enterprises of the Services for the Blind.

A. Legal authority and scope of rules. Pursuant to Minn. Stat., ~~1953, Sec. 15.06, and Sec. 248.07 as amended by laws of 1955, Chap. 303, §§ 15.0412, subd. 3, and 248.07, subd. 11 (1980)~~, the following rules are hereby issued by the Commissioner of Public Welfare to govern all vending stands and business enterprises established by the Services for the Blind, Department of Public Welfare, for which the Department of Public Welfare is responsible. Licenses to blind persons will be issued in accordance with these rules and applicable statutes by the commissioner or his designee, hereinafter to be known as the licensing agency.

#### B. Issuance and conditions of licenses.

1. Selection of stand operators. The selection of stand operators will be made on an objective basis, including a thorough evaluation of the following: ~~character, personality,~~ experience, training, former vocations, education, ~~and health,~~ and other factors that relate to job requirements. Preference will be given to blind persons who are in need of employment. The following specific requirements will also be adhered to: Blind persons selected as operators will:

a. ~~(a)~~ be determined, blind in accordance with the definition of blindness contained in the federal regulations issued pursuant to the Randolph-Sheppard Act; after examination by a physician skilled in diseases of the eye or by an optometrist, whichever such person shall select, to have (1) Not more than 20/200 central visual acuity in the better eye with correcting lenses, or (2) An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its evident diameter subtends an angle of no greater than 20°,

b. ~~(b)~~ be citizens of the United States,

c. ~~(c)~~ be at least 21 years of age;

d. ~~(d)~~ be certified as qualified for the operation of a vending stand by the rehabilitation staff of the Services for the Blind, Department of Public Welfare; and

e. ~~(e)~~ have one year's residence in the State of Minnesota.

#### 2. License period and license termination.

a. Each license will be issued for an indefinite period but subject to termination by written notice for good cause shown, including but not limited to:

1. failure to operate in accordance with this rule, the agreement with the operator, or the terms and conditions of the licensing agency's permit to operate in the building or property; In addition to the above, a license may be terminated, or an operator may be removed or suspended, for dishonesty, for repeated failure to work the hours designated, for inefficiency in operation of the stand, for use of alcoholic beverages during stand hours, for unsatisfactory personal habits, for failure to cooperate with the licensing agency, or for failure to comply with his agreement with the licensing agency or with this rule.

2. improvement of vision so that the operator no longer meets the definition of blindness as stated in part B.1.a. of this rule;

3. extended illness with medically documented diagnosis of prolonged incapacity of the operator to operate the vending stand in a manner consistent with the needs of the location or other available locations in the program;

4. withdrawal of the operator from the program upon the operator's written notification to the licensing agency.

b. The licensing agency shall promptly notify by certified mail or personal service any vending stand operator whose license is proposed to be revoked. This notification shall state the grounds for such action and shall inform the operator of the

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right to appeal the action. The operator will be afforded an opportunity for a fair hearing before termination of the license as described in Section ~~G~~ I. of this rule.

~~3. Income from vending machines within reasonable proximity to, and direction competition with, the vending stand will be assigned to that vending stand.~~

### 3. Operator agreements.

a. Each licensed operator will sign an agreement for the operation of an assigned vending stand, and will sign a new agreement each time the operator moves or transfers to another vending stand.

b. The operator's agreement to operate a vending stand may be revoked or temporarily suspended in those instances where the operation, integrity, or reputation of the program may be damaged. The licensing agency shall promptly notify by certified mail or personal service any vending stand operator whose agreement is suspended or revoked. The notification shall state the grounds for such action and shall inform the operator of the right to appeal the action, as described in Section I of this rule. The action to suspend or revoke an agreement does not automatically mean the termination of the operator's license. Notice of intent to terminate the operator's license shall require a separate notice, as described in part B.2.b. of this rule.

### C. Furnishing equipment and initial stocks. The licensing agency is responsible:

1. For furnishing each vending stand or business enterprise with adequate, suitable equipment and maintenance, ~~and repair, and replacement~~ of such equipment.

2. For furnishing each vending stand or business enterprise with adequate initial stocks of merchandise and supplies. Subsequent purchase of merchandise shall be made by the operator out of current receipts. Merchandise shall be replaced as sold, maintaining the inventory at the minimum of the original inventory.

### D. Right to, title to, and interest in the vending stand equipment and stocks.

The right to, title to, and interest in the vending stand equipment used in the program is vested in the State of Minnesota. Operators will be required to acquire ownership of merchandise and supplies through reimbursing the licensing agency for such expenditures, by monthly payments extended over a three-year period. Upon approval of the licensing agency additional time may be granted in hardship cases, the purpose of which is to assure that no individual be denied the opportunity to become an operator because of ~~his~~ the operator's inability to purchase the initial stock. Upon termination of the operator's license, the licensing agency will purchase, at the prevailing wholesale price, all saleable merchandise and, at an amortized price, all supplies remaining in the stand, assuming there is no delinquency in the operator's accounts with the licensing agency. No fixtures or equipment shall be added, altered, or removed from the stand except at the direction of the licensing agency. The operator will exercise all possible care in the use of fixtures and equipment, making no alterations, changes, or additions.

### E. Funds set aside from vending stand proceeds.

1. The licensing agency will set aside or cause to be set aside from the month net ~~profits~~ proceeds of the operation of vending stands the following amounts:

a. ~~1-~~ on the 1st \$100 or portion thereof, ~~4%~~ 2%

b. ~~2-~~ on the 2nd \$100 or portion thereof, ~~6%~~ 4%

c. ~~3-~~ on the 3rd \$100 or portion thereof, ~~8%~~ 6%

d. ~~4-~~ on the 4th \$100 or portion thereof, ~~10%~~ 8%

e. ~~5-~~ on the 5th \$100 or portion thereof, ~~12%~~ 10%

f. ~~6-~~ on the 6th \$100 or portion thereof, ~~14%~~ 12%

g. ~~7-~~ on the 7th \$100 or portion thereof, ~~16%~~ 14%

~~8- on the 8th \$100 or portion thereof, 18%~~

~~9- on the 9th \$100 or portion thereof, and any amounts over \$1000, \$700 20%~~ 16%

~~1- "Net profits"; "Net proceeds," as used herein, means the monthly cash receipts including any vending machine or other income, less merchandise purchases, general expenses, and pay roll; and, for accounting purposes only, the previous month's set aside charge (excluding set-aside charges).~~

2. This rate supersedes any previous rate heretofore established by any agreements or policies of the licensing agency. The operator shall pay these set-aside funds monthly to the licensing agency. These set-aside funds shall be used only to the extent necessary and may be used for the sole purpose of:



- a. maintenance and replacement of equipment;
- b. the purchase of new equipment; and
- c. the management services that are specified in state law.

~~2. Adequate records will be maintained to support the reasonableness of the amount set aside for the purposes listed above. In no case will the amount set aside exceed the amount determined by the Director of the Federal Office of Vocational Rehabilitation, Department of Health, Education, and Welfare, to be reasonable. The set aside rates will be re-evaluated periodically and adjusted by amendment to this rule when necessary.~~

3. The Operator Management Committee, as defined in part H.3. of this rule, will participate with the licensing agency in the establishment of a set-aside schedule covering each of the purposes for which the set-aside funds are intended to be used, and will be reviewed annually to determine the need for change based upon the previous year's expenditures. The schedule shall be designed to prevent, so far as is practicable, a greater charge for any purpose than is reasonably required, with the allowances for the retention of reasonable reserves necessary to assure that each such purpose can be provided on a continuing basis. Changes, when necessary, shall be by amendment to this rule.

F. Distribution and use of income from vending machines on federal property.

1. Vending machine income from vending machines on federal property which has been disbursed to the licensing agency by a property managing department, agency, or instrumentality of the United States shall accrue to each blind operator operating a vending stand on such federal property in an amount not to exceed the average net income of the total number of blind operators within the state program, as determined each fiscal year on the basis of each prior year's operation, except that vending machine income shall not accrue to any blind operator in any amount exceeding the average net income of the total number of blind operators in the United States.

2. No blind operator shall receive less vending machine income than the operator was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling.

3. No limitation shall be imposed on income from vending machines combined to create a vending stand when such stand is maintained, serviced, or operated by a blind operator. The licensing agency will retain vending machine income disbursed by a property managing department, agency or instrumentality of the United States in excess of the amounts eligible to accrue to blind operators.

4. The licensing agency will disburse vending machine income to blind operators on at least a quarterly basis.

5. Vending machine income retained by the licensing agency will be used for the establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for blind operators, if it is so determined by a majority vote of the licensed operators, after each operator has been furnished information on all matters relevant to such purposes. Any vending machine income not necessary for such purposes shall be used for one or more of the following: maintenance and replacement of equipment; purchase of new equipment; or management services. Any set-aside charged to blind operators shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

G. ~~F.~~ Policies governing the duties, supervision, transfer, and participation of operators.

1. Each operator shall be entitled to the net ~~profit~~ proceeds of the operation of the vending stand he/she operates, less the amount set-aside by the licensing agency. ~~Each operator prior to the effective date of this Rule shall sign a new agreement with the licensing agency consistent with this Rule.~~

2. ~~1.~~ Each operator shall agree to:

- a. perform faithfully and to the best of ~~his~~ the operator's ability the necessary duties in connection with the operation of a vending stand in accordance with the licensing agency's rules, the terms of the licensing agency's permit to operate in the building or property, and the agreement with the operator;
- b. cooperate with official and duly authorized representatives of the licensing agency in connection with their official program responsibilities;

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- c. operate the vending stand in accordance with all applicable health laws and regulations;
- d. furnish monthly reports to the licensing agency by the tenth of the following month, listing daily sales, other income, purchases, other expenditures, and personal withdrawals, and attaching all invoices properly received. Inventory of merchandise will be included when requested;
- e. make all purchases of merchandise on a strictly cash basis unless exception is permitted in writing by the licensing agency; and
- f. make no credit sales.

3. ~~2~~. The licensing agency assumes responsibility for providing to the vending stand operators such supervision, assistance and training as may be necessary to insure the operation of each vending stand in the most productive and efficient manner possible. This supervision, assistance and training must be performed in accordance with the following policies in addition to other provisions of this rule.

a. ~~In the granting of licenses~~ entering agreements for new or vacated stands, preference on the basis of seniority of experience of operating stands under the control of the licensing agency shall be given to capable operators who are deemed competent to handle the enterprise under consideration. The application of such preference will not prohibit the licensing agency from selecting an operator from the community in which the stand is located. Seniority shall be determined on the basis of continuous service in the stand program while under contract with the licensing agency. In the case of broken service, previous service shall be considered only when termination was due to no fault of the operator. Termination for medical reasons may be considered as a leave of absence when so requested by the operator and approved by the licensing agency at the time of termination.

b. When it has been determined that a relief operator or an assistant or assistants must be employed, the licensing agency shall first make attempts to locate a handicapped individual before approving the employment of a non-handicapped person. The wages paid for any help, including bookkeeping, must be in reasonable proportion to work performed and must be approved by the licensing agency.

c. The licensing agency shall approve the items and the selling prices at which those items may be sold, which comprise the merchandise inventory at each vending stand.

d. The operator must obtain the approval of the licensing agency before changing vendors with whom ~~he~~ the operator does business in connection with the vending stand.

e. The operator will purchase liability insurance for the vending stand. The agency will purchase liability insurance for a vending stand only when, in the opinion of the licensing agency, it is deemed essential that the agency purchase this insurance. ~~be provided.~~

### H. Election, organization, and functions of the Operator Management Committee.

1. The licensing agency and the elections sub-committee of the Operator Management Committee will conduct an annual election for representatives to the Operator Management Committee.

2. The committee will consist of one representative from each of the program districts (at present six) and two representatives at large.

a. Nominations will be solicited in each district for that district and state-wide for at-large representatives.

b. Elections will be by licensed operators in each district for their district and state-wide for at-large representatives.

c. Each term will be two years, with a limit of two successive terms.

d. The committee shall elect its own chairman and other officers. The chairman shall appoint sub-committees as necessary.

e. The full committee will meet a minimum of twice a year. Meetings may be called by notice of either the licensing agency or the chairman of the committee. Sub-committees will meet as necessary to carry on their functions.

f. The committee shall establish by-laws for the further rules, functioning and guidance of the committee.

3. The Operator Management Committee's purpose and function is to:

a. Participate with the licensing agency in major administrative decisions and policy and program development;

b. Receive grievances of vending stand operators and serve as their advocates;

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c. Participate with the licensing agency in the administration of the transfer and promotion system for vending stand operators;

d. Participate with the licensing agency in developing training and retraining programs; and

e. Sponsor, with the assistance of the licensing agency, meetings and instructional conferences for vending stand operators.

G. Opportunity for a Fair Hearing for Operators: An opportunity for a fair hearing will be afforded to each operator dissatisfied with any action arising from the operation or administration of the vending stand program.

1. The following standards and procedures will be followed in granting an operator a fair hearing.

a. An operator shall have the right to be represented at the hearing by counsel or by a friend.

b. The hearing shall be held within a reasonable time after the written request therefore and at a time and place reasonably convenient to the operator.

c. The operator shall have an adequate opportunity to present his case and for cross-examination.

d. The application for a hearing shall be made to the Commissioner. The hearing shall be held in accordance with the law as prescribed in Laws of 1957, Chap. 806, Sec. 8 through Sec. 14.

e. The decision shall be based upon the information adduced at the hearing. The verbatim transcript of the testimony and the exhibits, or an official report containing the substance of what took place at the hearing together with all papers and reports filed in the proceedings, and recommendations of the hearing official shall constitute the exclusive record for decision and shall be available to the operator.

f. The decision shall be in writing and shall set forth the issue, the relevant facts brought out at the hearing, the pertinent provisions in law and agency policy, and the reasoning that led to the decision. The operator shall be forwarded a copy of the decision immediately upon its issuance.

g. The decision shall constitute the official action of the state licensing agency in relation to the action that was the subject of the hearing.

I. Review of agency decisions. Operators shall be informed in writing at the time they are licensed, of their right to and the procedures to be followed in obtaining an administrative review or a fair hearing regarding an agency decision.

1. An opportunity for an informal administrative review will be afforded to each operator dissatisfied with any action arising from the operation or administration of the vending stand program. The following procedures will be followed in granting operators an informal administrative review:

a. An operator or the operator's designee (who need not be an attorney) may request in writing, within 15 working days of the occurrence of the action, administrative review of the licensing agency action. This review will be made only by a member of members of the administrative staff of the agency who have not in any way participated in the agency action in question.

b. The administrative review will be held during regular agency working hours, at a district or local office location. An administrative review will be conducted within 30 working days of receipt by the licensing agency of such a written request.

c. Documentation as to written requests for administrative review and actions and decisions resulting therefrom shall be maintained as part of the official record of the administrative review process.

d. When an informal administrative review does not resolve a dispute to the satisfaction of a blind operator, the blind operator may request that the licensing agency provide a fair hearing.

2. An opportunity for a fair hearing conducted pursuant to Minn. Stat. §§ 15.0418-15.0422 will be afforded to each operator dissatisfied with any action arising from the operation or administration of the vending stand program. The following procedures will be followed in granting operators a fair hearing.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. Strike outs indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. Strike outs indicate deletions from proposed rule language.

## PROPOSED RULES

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a. If an operator requests a fair hearing, such a request must be made either within 15 working days after an adverse decision based on an administrative review or, in the absence of an administrative review, within 15 working days of the occurrence of the action with which the operator is dissatisfied.

b. An operator or the operator's designee must request a fair hearing in writing. This request must be transmitted to the administrator of the licensing agency personally or by certified mail, return receipt requested. The request must specify the action being appealed and state in detail the basis for the appeal.

c. The hearing shall be held at a time and place convenient and accessible to the operator requesting a fair hearing. A hearing held during regular agency working hours and located at the state agency central office will be deemed among the convenient times and places. Upon receipt of the request, the licensing agency shall immediately request a hearing date from the state Office of Administrative Hearings, and then notify the operator of the time and place for the hearing. The operator shall be provided a copy of the hearing procedures and rules.

d. After receipt of the report of the hearing examiner the state administrator (or, in the case of license revocation, the Commissioner of Public Welfare) shall issue a proposed decision. The proposed decision shall state that the decision shall become final 15 days after its issuance unless, before that date, the operator requests a review by a three-person appeal committee according to Minn. Stat. § 248.07, subd. 15(3). The appeal committee's recommendation will be made to the administrator of the licensing agency or the Commissioner who shall issue a final decision modifying or affirming the proposed decision.

3. If an operator is dissatisfied with the decision rendered after a full evidentiary hearing, the operator may request that an arbitration panel be convened by filing a complaint with the Secretary of the Department of Education, as authorized by federal regulations at 45 C.F.R. § 1369.13 (1979).

J. Access to program and financial information. Each operator shall be provided access to all program and financial data of the licensing agency relevant to the operation of the vending stand program, including quarterly and annual financial reports. Insofar as is practicable such data shall be made available in braille or recorded tape. At the request of an operator, the licensing agency will arrange a convenient time to assist in the interpretation of such data.

K. ~~H.~~ Explanation to operator of the operator's responsibilities and privileges. The licensing agency rules, the agreement with the operator, and any applicable regulations of the authority having charge of the property on which the vending stand or business enterprise is located shall be read and explained to each operator. A copy of the agreement and this rule will be furnished to each operator. ~~+~~ The new agreement between the licensing agency and the operator, consistent with the provisions of this rule and signed by the operator, will be the operator's attestation that the agreement and this rule have been read to the operator and that the operator agrees to abide by them.

# ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

## Board of Examiners for Nursing Home Administrators

### Adopted Rules Providing for Waiver of Certain Licensure Requirements (NHA 10 & 13) and Repeal of NHA 22 and 23 and portions of NHA 10

The rules proposed and published at *State Register*, Volume 5, Number 20 pp. 771-775, November 17, 1980 (5 S.R. 771) are adopted with the following amendments:

#### Rules as Adopted

##### 7 MCAR § 6.010 Requirements.

A. No initial license shall be issued to a person as a nursing home administrator unless the individual:

1. is at least 18 years of age.
2. is of sound physical and mental health.
3. is of good moral character and otherwise suitable.
4. has furnished satisfactory evidence, as required by the board, that he/she possesses the general administrative abilities needed to satisfactorily administer a nursing home and possess the ability to relate the administration of a nursing home to the physical, psychological, spiritual, emotional and social needs of patients and to create a compassionate and helpful environment.
5. has paid all license and examination fees as established by the Board.
6. has achieved a passing score, to be reasonably established by the board, on all required examinations, unless otherwise hereinafter provided.
7. has satisfactorily completed a board approved practicum course in long term care administration of a minimum of 300 clock hours under the guidance of a licensed nursing home administrator preceptor and the supervision of a faculty person coordinating the course at the college or university offering the course.
8. has a Baccalaureate degree (or a higher degree) from an accredited institution. If this degree is not in health care administration with courses in long term care, the degree must include at least one course in each of the following areas: Management, long term care programs, gerontology, issues in health care, medical terminology, business or health care law, accounting or fiscal management, ~~and a practicum experience of a minimum of 300 clock hours in a long term care facility.~~ The requirements of this section do not apply to those individuals who are applying for renewal of their license.

##### B. Waiver provisions.

1. The board ~~may~~ shall waive ~~NHA 10(a)(7) and 10(a)(8)~~ 7 MCAR § 6.010A.7 and 6.010A.8 if the applicant submits satisfactory evidence of having actively served full time (40 hrs. per week) as a licensed nursing home administrator in another state for a minimum period of two continuous years and meets all other licensure requirements.
2. The board ~~may~~ shall waive ~~NHA 10(a)(7)~~ 7 MCAR § 6.010 A.7. if the applicant submits evidence of having completed satisfactorily one year full time as an administrator or in an assistant administrator position in a health care facility.

**KEY: PROPOSED RULES SECTION** — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

## ADOPTED RULES

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3. The board ~~may~~ shall waive the requirements of ~~NHA 10(a)(7) and 10(a)(8)~~ 7 MCAR §§ 6.010A.7 and 6.010A.8 for any applicant who, on April 15, 1980, was registered with the Commissioner of Health as a hospital administrator and who was administratively responsible on April 15, 1980, for a nursing home (convalescent and nursing care unit) (C&NC) attached to a hospital and had served in that capacity for a period of three (3) or more years. Any applicant applying for licensure pursuant to this rule shall be required to pass the currently used written examination.

4. The Board ~~may~~ shall waive all, except the following, requirements of ~~NHA 10(a)(7) and 10(a)(8)~~ 7 MCAR §§ 6.010A.7 and 6.010A.8 for any applicant who, on April 15, 1980, was registered with the Commissioner of Health as a hospital administrator and who was administratively responsible on April 15, 1980, for a nursing home (convalescent and nursing care unit) (C&NC) attached to a hospital and had served in that capacity for a period of less than three (3) years:

- a. Long term care programs.
- b. Gerontology.

Any applicant applying for licensure pursuant to this rule shall be required to pass the currently used written examination.

5. The board ~~may~~ shall waive any provision of its rules requiring a demonstration of medical knowledge which is contrary to the religious beliefs of the Church of Christ, Scientist for any applicant who seeks to obtain a license restricted to administering a nursing home operated exclusively in accordance with the teachings of the Church of Christ, Scientist. Any license issued pursuant to this section shall be endorsed to restrict the license to administering such institutions.

6. The board shall waive the requirements of 7 MCAR §§ 6.010 A.6., 6.010 A.7. and 6.010 A.8. for any applicant who on April 15, 1980, was registered with the Commissioner of Health as a hospital administrator and who was administratively responsible on April 15, 1980, for a nursing home (convalescent and nursing care unit) attached to a hospital, and who is applying for a license restricted to the administration of a nursing home attached to a hospital. Any license issued pursuant to this subpart shall be endorsed to restrict the licensee to the administration of a nursing home attached to a hospital.

7 MCAR § 6.013 License—issuance.

A. An applicant for license as a nursing home administrator who has complied with the requirements of the licensing law and the standards provided herein ~~and has passed the examinations~~, shall be issued a license on a form provided for that purpose by the board, certifying that such applicant has met the requirements of the laws, rules and regulations entitling him to serve, act and practice, and otherwise hold himself out as a duly licensed nursing home administrator subject to any endorsements on the license. Any license issued by the board shall be under the hand and seal of the chairperson and secretary of the board.

7 MCAR §§ 6.022 and 6.023 [Proposed repeal of NHA 22 and 23 (7 MCAR §§ 6.022 and 6.023) has been withdrawn.]

## SUPREME COURT

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### Decisions Filed Friday, June 26, 1981

Compiled by John McCarthy, Clerk

51898/Sp. Peter J. Heinz, Relator, v. Vickerman Construction, *et al.* Workers' Compensation Court of Appeals.

Since the record discloses sufficient evidence to overcome the presumption, set forth in Minn. Stat. § 176.521, subd. 2 (1980), that a proposed settlement made by an employer and employee is reasonable; fair and in conformity with the provisions of Minn. Stat. ch. 176 (1980), the Workers' Compensation Court of Appeals was justified in disapproving the settlement.

Affirmed. Otis, J.

51740/Sp. State of Minnesota v. Carl Crain, Appellant. Cook County.

Evidence of defendant's guilt held, sufficient.

The trial court properly admitted eyewitness identification testimony.

The introduction of four prior theft convictions to impeach defendant's credibility was not prejudicial error.

Affirmed. Otis, J.

51767/Sp. State of Minnesota v. Janet M. Ostroy, Appellant. Cook County.

Evidence of defendant's guilt of felony theft held, sufficient.

The court properly denied a motion to suppress eyewitness identification testimony.

Affirmed. Otis, J.

51439, 51440, 51441/37 *West Concord Conservation Club, Inc., v. Virgil J. Chilson, Sr., Lorraine A. Chilson and Norman C. Jackson, Sr., Appellants (51440), Randy Sackett, Defendant, Southern Minnesota Coon Club, Inc., Richard Sackett and Larry Narveson, Appellants (51439), and Virgil J. Chilson, Sr., et al., Third Party Plaintiffs, v. Sandra and Randy Sackett, Fourth Party Plaintiffs, v. Wilmar Plevke, Fourth Party Defendant. Dodge County.*

As a matter of law, estoppel could not lie against plaintiff corporation when it had been reasonably diligent in asserting its claim to a tract of real property and defendants had notice of its ownership of the property.

The trial court's findings of fact and conclusions of law were consistent with the answers to special verdict questions submitted to the jury.

Defendant, president of a Minnesota nonprofit corporation, could be held liable for judgment against a corporation in which he was sole shareholder when he personally received proceeds from the corporation's sale of real property and when disregard of the corporate entity was necessary to obviate an inequitable result.

Affirmed. Peterson, J.

144/50208 *Robert G. Wohlrabe, et al., v. Roger D. Pownell, et al., Defendants, Greeley Street Clinic, P.A., et al., Appellants. Hennepin County*

Factual findings of the trial court were clearly erroneous.

Minn. Stat. § 336.3-305(1) (1980) constitutes the exclusive authority for determining the rights of a holder in due course to a commercial instrument over any person not a party to the instrument. The statute states that a holder in due course takes an instrument free from all claims and this includes the claim of constructive trust.

To achieve holder in due course status, a holder must take the instrument under facts and circumstances which could not lead the holder to infer that a claim against the instrument exists in any other party.

The judgment for the plaintiffs is vacated as to the defendants Greeley Street Clinic, P.A. and the Greeley Profit-Sharing Trust, and the matter is remanded to the district court with instructions to enter judgment for the Greeley defendants, Greeley Street Clinic, P.A. and the Greeley Profit-Sharing Trust.

Todd, J., Dissenting, Otis, J., Sheran, C. J., and Amdahl, J.

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## STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

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### Department of Health Health Systems Division Emergency Medical Services Section

#### Notice of Request for Proposals for Medical Director

The Minnesota Department of Health is requesting proposals from eligible physicians who would be able to serve as medical director of its Emergency Medical Services Section for the period August 1, 1981, to June 30, 1982. Qualifications for the position are: current active practice of emergency medicine or a related specialty; recognized standing in the professional community in the form of current or recent chairmanships and memberships of the American College of Emergency Physicians, Minnesota Medical Association, and other relevant professional associations; experience in working with governmental agencies; familiarity with the federal emergency medical systems grant program and other relevant federal and state programs;

## STATE CONTRACTS

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and interest in assisting the Department of Health in defining and reaching its goals in regard to the planning and development of emergency medical services, the regulation of current services, and the setting of appropriate guidelines and standards.

Minimum tasks include: developing and coordinating the implementation of a continuing education program in emergency medical care for medical professionals, assisting the Department of Health in revising rules and regulations pertaining to EMS, supervising and coordinating the activities of specialty medical advisors to the emergency medical services section of the department, reviewing requests for waivers and variances, representing the department to various professional, governmental and public entities, providing general technical assistance as needed to the department and providing regular progress reports.

Candidates must respond in the form of a proposal to enter into a contract as required by the Department of Health. Maximum reimbursement for a total of 250 to 350 hours assistance will be \$12,000, which includes travel and expenses. The deadline for proposals is August 7, 1981.

Copies of the request for proposals and other information are available from:

James M. Stoffels, Chief  
Emergency Medical Services Section  
Minnesota Department of Health  
717 Delaware St. S.E.  
Minneapolis, Minnesota 55440

### **Notice of Request for Grants Management Consultant Services**

The Minnesota Department of Health is requesting proposals from eligible individuals and corporations to serve as a grants management consultant for the period September 1, 1981, to June 30, 1982. Qualifications for the consultant are extensive experience working with governmental agencies relative to grants management and familiarity with the federal emergency medical systems grant programs and other relevant federal and state programs.

Minimum tasks include: assisting the department in drafting technical assistance documents presenting the State Emergency Medical Services (EMS) Plan in terms relevant to regional and local health planning agencies; providing technical assistance and training to department staff and assigned EMS regions relative to implementing regional systems of emergency care based upon federal grant requirements; and providing the department general technical assistance implementing EMS activities relative to its role as state lead agency developing systems of emergency care.

Candidates must respond in the form of a proposal to enter into a contract as required by the Department of Health. Maximum reimbursement for a total of 200-300 hours assistance will be \$12,000, which includes travel and expenses. The deadline for proposals is August 7, 1981.

Copies of the request for proposals and other information are available from:

James M. Stoffels, Chief  
Emergency Medical Services Section  
Minnesota Department of Health  
717 Delaware St. S.E.  
Minneapolis, Minnesota 55440

## **Minnesota Pollution Control Agency Solid and Hazardous Waste Division**

### **Notice of Request for Proposals for Contractual Services to Assess Ground Water Contamination at Selected Landfills in Areas of Sensitive Hydrogeology**

The Minnesota Pollution Control Agency (MPCA) is seeking proposals from qualified consulting firms to conduct detailed, site-specific studies and prepare a report on impact of selected solid waste disposal facilities on ground water quality in two areas of the state where the ground water resource is both intensively developed and highly vulnerable to contamination. Facilities to be considered include those in and adjacent to the karst area of southeast Minnesota and those in the Anoka sandplain. The consultant will assist MPCA in final selection of four sites from a list of facilities developed by the agency.

The primary purpose of the study will be to obtain sufficient hydrogeologic information on each facility to allow a determination to be made whether or not that facility passes or fails the ground water criterion, promulgated under authority of the Resource Conservation and Recovery Act (RCRA — P.L. 94-580). Criteria for classification of solid waste disposal facilities were published in the *Federal Register* on September 13, 1979 (Vol. 44, No. 179, p. 53438). Additionally, information gained



from the study should be of sufficient detail to allow a determination to be made of the extent to which location, design and operation of the subject facilities are protecting the environment. The study should also provide additional technical information which will help add to the data base needed to allow MPCA to develop a ground water protection strategy framework for these areas of Minnesota. The estimated cost of this project is \$100,000.

Prospective responders who have questions or who would like a copy of the scope of work for this study may call or write:

Tom Clark  
Minnesota Pollution Control Agency  
Division of Solid and Hazardous Waste  
1935 West County Road B2  
Roseville, Minnesota 55113  
612-297-2720

Deadline for submission of proposals is 4:30 p.m., August 3, 1981.

## **Department of Revenue Research Office**

### **Notice of Request for Proposals for a Econometric Model for the State of Minnesota**

The Minnesota Department of Revenue is seeking proposals to build an econometric model for the State of Minnesota. The model should be primarily structural for impact and tax policy analysis and secondarily for revenue forecasting. It should be built from the perspective of state government rather than a factured national model. The model should be designed to run on the state's computer system.

The model should be sufficiently detailed to capture the essential determinates of statewide economic activity as measured by employment, income, prices, investment, etc. The model should explicitly and in a detailed manner recognize each component of the state tax structure as well as necessary local tax sources. It should be built so as to facilitate the simulation of the primary and secondary impacts of changes in tax policy on economic variables and tax revenues.

A proposal should be submitted to the Commissioner of Revenue no later than August 10, 1981.

The formal Request for Proposal may be requested from and all inquiries should be directed to:

Dan Salomone  
Research Office  
Department of Revenue  
Centennial Office Building  
St. Paul, Minnesota 55145  
(612) 296-3425

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## **OFFICIAL NOTICES**

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

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## **Department of Commerce Banking Division**

### **Bulletin No. 2414: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of July 1981**

Notice is hereby given that pursuant to Minnesota Statutes, § 47.20, subd. 4a (1980), the maximum lawful rate of interest for conventional home mortgages for the month of July, 1981, is sixteen and one-half (16.50) percentage points.

## OFFICIAL NOTICES

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Further, pursuant to Senate File No. 273, Chapter 373, 1980 Session Laws, as it amended Minnesota Statutes, § 47.20, the maximum lawful rate of interest for contracts for deed for the month of July 1981 is sixteen and one-half (16.50) percentage points.

June 24, 1981

Michael J. Pint  
Commissioner of Banks

### **Energy Agency Alternative Energy Development Division**

#### **Notice of Intent to Solicit Outside Opinion Concerning Rules Relating to the District Heating Preliminary Planning Grants**

##### **Introduction**

Notice is hereby given that the Minnesota Energy Agency (hereinafter "agency") is soliciting information and opinions from sources outside the agency for the purpose of making rules to manage the distribution of Preliminary Planning Grants authorized by the 1981 Legislation.

The agency is considering promulgating noncontroversial rules for the purpose of distributing Preliminary Planning Grants to communities. The grants will allow communities to identify and plan district heating projects. It is anticipated that rules can be adopted by October, 1981.

##### **Legislation**

These rules will be based on Laws of 1981, Chapter 356, § 30. \$300,000 was appropriated in FY82 for district heating Preliminary Planning Grants to municipalities for planning related to the development of district heating systems. The municipality must demonstrate that a community heat load survey and map have been successfully completed, that potential district heat load is sufficiently large to justify further consideration, and that the municipality has sufficient resources to meet the project's financial requirements.

Eligible planning grant costs (cover) project definition, preliminary financing plus distribution system plans, obtaining community commitment for detailed design, and preparation of a final report. The amount of a grant shall be limited to 90 percent of eligible planning costs and shall not exceed \$20,000. The director of the Energy Agency shall prepare and submit to the Legislative Advisory Commission a list of Preliminary Planning Grant requests. The list shall contain necessary supporting information. The recommendation of the Legislative Advisory Commission shall be transmitted to the Governor. The Governor shall approve or disapprove, or return for further consideration, each project recommended for approval by the Legislative Advisory Commission. Grants may be disbursed only upon approval by the Governor.

##### **Objective**

The objective of the Preliminary Planning Grant Program is to encourage the development and expansion of economically viable district heating systems which have the potential to save energy or displace scarce fuels such as oil and natural gas. It is the intent of this program to encourage:

1. construction of new hot water district heating systems,
2. reconstruction or major expansion of existing steam district heating systems,
3. expansion of district heating systems by development of satellite systems or heat islands which could be connected to an existing or proposed central heating system later.

It must be demonstrated that the satellite system is a logical part of the development of the major central system, before approval of a planning grant for a satellite system or heat island.

##### **Preliminary Planning Grant Program**

A minimum of 15 grants will be awarded under current legislation. Assistance in developing grant proposals will be provided by a district heating workbook currently being developed by the MEA. This workbook is expected to be available in draft form in August. The workbook will include the heat load survey forms and instructions needed to develop heat load survey and map required.

Grant awards will be made in 2 categories: 1) to develop satellite or heat islands that can later become a part of a larger system, and 2) for development and expansion of community district heating.

The MEA will receive grant applications on two month intervals from October, 1981 to July 1, 1982. Applications received will be ranked and at least 3 proposals on each round will be recommended to the Legislative Advisory Commission for approval and funding. Comments on proposals not selected for grant awards will be forwarded to the communities. Proposals not funded will be included in the next funding round and communities may modify or supplement proposals for the next funding interval, if desired.

**Contents of Preliminary Planning Grant Application**

1. Description of Heat Source—if an existing heat source such as an electric generation plant or a coal fired boiler is available include discussion of: type, size, age, fuel, present use, emission controls, etc. If new heat source would be used, include: fuel, estimated cost of fuel and fuel availability.
2. Size of District Heating Load—summarize heat load survey. Include, map showing location of heat source and major load concentrations.
3. Community Benefit—discuss impact of district heating system on community and how it would relate to community development plan.
4. Community Commitment—include evidence of interest and commitment from major potential loads, owner of heat source, and governing body.
5. Project Plan—project plan should include detailed work scope, as well as actions and steps that would result from Preliminary Planning Project.
6. Project Budget.
7. Project Organization Chart and Use of Consultants.

**Criteria for Ranking Applications**

A ranking system including the following major categories will be developed:

- I. How well Project Plan addresses impact of a district heating system on commercial, industrial and residential segments of community.
- II. Opportunities for District Heating.
- III. Applicant's Capability.
- IV. Applicant's Commitment to Project.
- V. Clarity and Conciseness of Application.

All persons desiring to submit information or views on these or related subjects may do so either orally or in writing.

Written or oral comment should be addressed to:

Mr. Ronald Sundberg  
Minnesota Energy Agency  
980 American Center Building  
50 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
Telephone: 612/296-9096

All statements of information and comments on the rules governing Preliminary Planning grants must be received by July 20, 1981. Any written material received by this date will become part of the record of any rules bearing on this subject.

## **Department of Revenue Income Tax Division**

### **Notice of Intent to Solicit Outside Opinion Regarding Rules Governing Income Taxes, Withholding Taxes and the Property Tax Refund**

The Income Tax Division of the Department of Revenue seeks to obtain information and opinions from sources outside of the agency in preparing to propose the adoption, amendment, suspension, or repeal of various rules governing individual, fiduciary, partnership and corporate income taxes, withholding taxes, and the property tax refund.

Interested persons and organizations are invited to submit data and views on any of these subjects in writing or orally. Any written material received by this agency will become part of the official record to be submitted to the attorney general.

## OFFICIAL NOTICES

Information or comments should be submitted to Dale H. Busacker, Attorney, Income Tax Division, Department of Revenue, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55145, (612) 296-3439.

This notice supplements prior notices. If you have already submitted data or views or requested that you be notified of the proposed rules, you need not resubmit the data, views or request.

### Department of Transportation Technical Services Division

#### Appointment and Scheduled Meeting of a State Aid Standards Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standards Variance Committee who will conduct a meeting on Thursday, July 30, 1981, at 10:00 a.m. in Room 419, State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minnesota Statute § 471.705.

The purpose of the open meeting is to investigate and determine recommendation(s) for variances from minimum State Aid roadway standards as governed by 14 MCAR § 1.5032 M.4.b., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978), as amended.

The agenda will be limited to these questions:

1. Petition of Lake of the Woods County for a variance from Standards for Design Speed on CSAH 17 between TH 11 and North Terminus of CSAH 17.
2. Petition of the City of East Grand Forks for a variance from Standards for Street Width on the inter-city bridge (Minnesota Avenue) between East Grand Forks, Minnesota and Grand Forks, North Dakota.
3. Petition of Hennepin County for a variance from Standards for Street Width along CSAH 2 (Penn Avenue North) between TH 12 and Dowling Avenue North.
4. Petition of Hennepin County for a variance from Standards for Street Width on CSAH 3 (Excelsior Boulevard) between Meadowbrook Road and Louisiana Avenue.
5. Petition of Cook County for a variance from Standards for Design Speed on CSAH 12 (Gunflint Trail) from Co. Rd. 51 to Co. Rd. 47 and Co. Rd. 47 to Co. Rd. 81.

The cities and counties listed above are requested to follow the following time schedule when appearing before the Variance Committee:

10:00 a.m.	Hennepin County
10:30 a.m.	City of East Grand Forks
11:00 a.m.	Lake of the Woods County
11:30 a.m.	Cook County

Dated this 24th day of June, 1981.

Richard P. Braun  
Commissioner of Transportation

### Department of Transportation

#### Petition of Lake of the Woods County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Lake of the Woods County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a special resurfacing project along CSAH 17 from Trunk Highway 11 to the North terminus of CSAH 17.

The request is for a variance from 14 MCAR § 1.5032 H.1.d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 42 miles per hour instead of a required design speed of 45 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 24th day of June, 1981.

Richard P. Braun  
Commissioner of Transportation

### **Petition of the City of East Grand Forks for a Variance from State Aid Standards for Street Bridge Width**

Notice is hereby given that the City Council of the City of East Grand Forks has made a written request to the Commissioner of Transportation for a variance from minimum design standards for inter-city bridge street width on Minnesota Avenue in Grand Forks, North Dakota and 1st Street South East in East Grand Forks, Minnesota.

The request is for a variance from 14 MCAR § 1.5032 H.I.C., Rules for State Aid Operations under Minnesota Statute, Chapters 162 and 163 (1978) as amended, so as to permit a minimum roadway bridge width of 28 feet instead of a roadway bridge width of 36 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 24th day of June, 1981

Richard P. Braun  
Commissioner of Transportation

### **Petition of Hennepin County for a Variance from State Aid Standards for Street Width**

Notice is hereby given that the County Board of Hennepin County has made a written request to the Commissioner of Transportation for a variance from minimum speed standards for street width along CSAH 2 (Penn Avenue North) between Trunk Highway 12 and Dowling Avenue North.

The request is for a variance from 14 MCAR § 1.5032 H.I.C., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a street width of 40 feet instead of a required design width of 72 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 24th day of June, 1981

Richard P. Braun  
Commissioner of Transportation

### **Petition of the County of Cook for a Variance from State Aid Standards for Design Speed**

Notice is hereby given that the County Board of the County of Cook has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards on County State Aid Highway 12 (Gunflint Trail) from 100' N.W. of County Road 51 to 500' N.W. of County Road 47 and from 100' N.W. of County Road 81 to the U.S. Forest Service Trail's End Campground Loop.

## OFFICIAL NOTICES

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The request is for a variance from 14 MCAR § 1.5032 H.1.d., Rules for State Aid Operations under Minnesota Statute, Chapters 162 and 163 (1978) as amended, so as to permit design speeds of 30 mph and 20 mph instead of a design speed of 45 mph.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated this 24th day of June, 1981.

Richard P. Braun  
Commissioner of Transportation

## Minnesota Water Resources Board

### Notice of Hearing on the Proposed Kanaranzi Watershed District

A hearing on a petition for the establishment of the Kanaranzi Watershed District will begin at 9:30 a.m. on Thursday, July 9, 1981, in the High School Library of Adrian Community High School, 1415 Kentucky Avenue, Adrian, Minnesota 56110.

A complete notice of and order for hearing will be published in the *Worthington Daily Globe* on June 18 and 25, 1981; in the *Star-Herald*, Luverne, Minnesota, on June 17 and 24, 1981; and in the *Nobles County Review*, Adrian, Minnesota, on June 18 and 25, 1981.

Copies of the complete notice are also available from the Minnesota Water Resources Board's office at 555 Wabasha Street, Room 206, St. Paul, Minnesota 55102. (612 296-2840).

## ERRATA

The rules of the Department of Revenue relating to individual income tax and property tax refund, published at 5 S.R. 2060 on Monday, June 22, 1981 contained errors as noted below:

13 MCAR § 1.6003A. (at 5 S.R. 2062) should read:

A. The beginning point in the determination of Minnesota gross income is federal adjusted gross income. Federal adjusted gross income for Minnesota residents should be the same as the federal adjusted gross income that is used for federal purposes. If no federal tax return was filed for that year, federal adjusted gross income for Minnesota must be calculated using the appropriate Internal Revenue Code as if a federal tax return had been filed. Federal adjusted gross income for Minnesota is defined in Minn. Stat. § 290.01, subd. 20 as being the federal adjusted gross income as defined in the Internal Revenue Code on a certain date. Unless the legislature specified otherwise, provisions that affect federal adjusted gross income for future years and which have been enacted by Congress as of December 31 of the year set by the legislature become effective for Minnesota income tax purposes at the same time they become effective for federal income tax purposes. If the federal change in the Internal Revenue Code is effective for years beginning after December 31, 1980, but is enacted as an amendment in 1979, the change is effective for Minnesota for taxable years beginning after December 31, 1980, also, since present conformity to the Internal Revenue Code includes federal amendments through December 31, 1979.) Provisions that affect federal adjusted gross income and which have been enacted by Congress after December 31 of the year set by the legislature do not become effective until the legislature passes a law to adopt the provisions or to update the reference to December 31, of a certain year.

13 MCAR § 1.6003 F. (at 5 S.R. 2063) was incorrectly lettered as "f."

13 MCAR § 1.6030 D.1.a. (at 5 S.R. 2065) should read:

a. The taxpayer has a valid explanation showing why no action was taken within the 90 day period. Examples of a valid reason are sickness or being outside of the country.

13 MCAR § 1.6030 B. (at 5 S.R. 2065) should have "a." inserted before the sentence: "Unpaid Minnesota tax liabilities owed to the Commissioner of Revenue."

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